## REMARKS

Claims 26-32 are all the claims pending in the application; claims 31 and 32 have been withdrawn from consideration; claims 26-30 are rejected.

After entry of this amendment, claims 26 and 28 will be cancelled and claims 27 and 29-32 will be pending.

Claim 27 has been amended to recite a specific anti-CD2 antibody that is used in the culture device of the claim. Support for the amendment may be found at page 5, lines 9-11; page 6, lines 10-12; page 12, lines 11-16; and page 16, line 1, through page 17, line 9, of the substitute specification.

No new matter has been added. Entry of the Amendment is respectfully requested.

### I. Formal Matters

The Examiner requires a statement that the substitute specification filed with the instant divisional application on January 9, 2001, contains no new matter.

In response, Applicants include herewith a Statement that the substitute specification contains no new matter, and a request for entry of the same.

### II. Rejection of Claims Under 35 U.S.C. §102

At paragraph 6 of the Office Action, claims 26-30 are rejected under 35 U.S.C. §102(b) as being anticipated by Schwarz et al. (1995).

The Examiner states that Schwarz et al. teaches a culture device for inducing activation of immunosuppressive human T cells. In particular, the Examiner states that the reference teaches both anti-CD2 TS2/18 and anti-CD3 OKT3 antibodies were added to the culture device before addition of cells, and thus the device meets all the limitations of the pending claims.

In response, Applicants include herewith an amendment to claim 27 and note that the pending claims now recite a culture device coated with the $F(ab)_2$ fragment of the anti-CD2 antibody TS2/18 produced by hybridoma HB195 (ATCC Accession number HB-195) and at least one anti-CD3 antibody.

Applicants assert that the culture device of Schwarz et al. is clearly different from that recited in the amended claims for the following three reasons.

First, Applicants note that the culture device of the present application is "a container coated with the $F(ab)_2$ fragment of the anti-CD2 antibody TS2/18 produced by hybridoma HB195 (ATCC Accession number HB-195) and at least one anti-CD3 antibody." In contrast, Schwarz et al. neither discloses nor suggests a container "coated" with antibodies and antibody fragments. According to the description of Schwarz et al. at page 5814, left column, lines 48-53 of text, in order to examine the activation of T cells after stimulation by various antibodies, a method using the following steps was practiced:

(a) antibodies were added to 96-well plates in RPMI 1640 containing 5% human serum albumin,

(b) cells were then added to the plates,

(c) the cells were cultured,

(d) [$^3$H] thymidine was added to the plates, and

(e) incorporated radioactivity was determined.

Under the conditions resulting from these steps, the antibodies would not be "coated" on the surface of the 96-well plates as recited in the pending claims because the antibodies were added to medium containing 5% human serum. It is well known in the art that a large amount of

albumin contained in serum will inhibit antibodies from becoming immobilized on the surface of culture plates.

Second, cross-linked anti-CD3 mAbs were used in the culture devices of Schwarz et al. These cross-linked antibodies were obtained by immobilizing anti-CD3 mAbs on beads (OKT3 immobilized on rabbit anti-mouse immunobeads) (page 5814, lines 40-42). As these anti-CD3-beads were added to the 96-well plates (see, e.g., page 5817, left column, line 12 (not counting lines in the figure legend), again the antibodies of Schwarz et al. do not coat the culture device as recited in the pending claims.

Third, Schwarz et al. neither discloses nor suggests a device containing both the $F(ab)_2$ fragment of the anti-CD2 antibody TS2/18 and an anti-CD3 antibody. The device of Schwarz et al. utilizes full-length anti-CD2 antibodies.

For these three reasons, it is clear that the culture device of the present invention differs from the device of Schwarz et al.

As Schwarz et al. does not teach each element of the claimed device, and therefore does not anticipated Applicants' device, Applicants respectfully request reconsideration and withdrawal of this rejection.

## III. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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Date: April 30, 2003